

DECISION

Mr. Neff
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

118695**FILE: B-206726****DATE: June 15, 1982****MATTER OF: Morris Moving & Storage****DIGEST:**

GAO does not review allegation that low bidder lacked State operating authority prior to award where invitation contains only general licensing requirement. Even if allegation is true, failure to possess license does not bar award, since matter is one between contractor and licensing authority, and contracting officer did not determine performance would be interrupted or delayed by award to unlicensed contractor.

Morris Moving & Storage (Morris) protests the award of a contract for packing and crating services to Albert Moving & Storage (Albert) under Sheppard Air Force Base invitation for bids No. F41612-82-B-0010. Morris contends that Albert is ineligible for award because, prior to award, it did not possess the necessary intrastate operating authority from the Railroad Commission of Texas, which is allegedly necessary for the performance of the contract. We dismiss the protest.

The invitation provided as follows:

"Offerors without necessary operating authority may submit offers, but the offerors shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits prior to award of a resultant contract and for complying with all laws, ordinances, statutes and regulations in connection with the furnishing of the services herein."

The Air Force states that, in view of the general language of this requirement, whether or not a bidder possesses a particular license needed to perform the contract is a matter between the bidder and the licensing authority, and possession of a license does not become a condition which must be met before an award may be made to the bidder. The Air Force acknowledges a Railroad Commission of Texas letter of December 29, 1980, to an attorney for Morris wherein it was stated that:

"Albert Moving and Storage Company does not possess any Texas intrastate authority from this Commission * * * [and] may not lawfully engage in Texas regulated [intrastate] Commerce in any other name or hold itself out to represent anyone other than Bekins Moving and Storage Company [for which it is an authorized agent]."

However, the agency points out that Albert represented in a postaward letter of February 23, 1982, that it had all the "necessary licenses and permits" needed to perform the contract; further, Albert, the incumbent, performed the same services as those involved here for over a year with no apparent difficulty.

Even if Albert did not possess authority from the Railroad Commission of Texas before award, in construing the above and similar license requirements, we have held that the failure of a low bidder to obtain a State or local license is not a proper basis to reject the low bidder as nonresponsible where the solicitation merely states in general terms that all State or local licenses must be obtained by the successful bidder. Such a failure does not affect the eligibility of a bidder to be awarded a Government contract, but is a matter to be resolved between the contractor and State and local authorities. Inter-Con Security Systems, Inc.; Washington Patrol Service, Inc., B-192188, February 9, 1979, 79-1 CPD 86; Career Consultants, Inc., B-195913, March 25, 1980, 80-1 CPD 215; Vernon Moving & Storage Company, B-198644, October 9, 1980, 80-2 CPD 262.

The only exception to the rule precluding the contracting officer from determining a bidder nonresponsible for failure to possess a State or local license under a general licensing requirement concerns situations where the contracting officer reasonably determines (based upon indications from State authorities) that enforcement attempts by the State are likely and that there is a reasonable possibility that such enforcement attempts could interrupt and delay performance under the contract if awarded to the unlicensed contractor. See What-Mac Contractors, Inc., 58 Comp. Gen. 767 (1979), 79-2 CPD 179. No such circumstances are apparent here.

Accordingly, the protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel